

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEBRASKA

| | | |
|-------------------------------|---|----------------------|
| DONNELL KING, |) | |
| |) | |
| Plaintiff, |) | 4:13CV3061 |
| |) | |
| v. |) | |
| |) | |
| JOANNE HILGERT, Tek Ind. |) | MEMORANDUM AND ORDER |
| Supervisor, in her individual |) | |
| capacity, MEL SOYH, Tek Ind. |) | |
| Supervisor, in his individual |) | |
| capacity, and TEK INDUSTRIES, |) | |
| INC., |) | |
| |) | |
| Defendants. |) | |
| _____ |) | |

This matter is before the Court after the Eighth Circuit Court of Appeals remanded this matter for consideration of plaintiff's employment-discrimination and equal-protection claims against Tek Industries, Joanne Hilgert, and Mel Soyh under 42 U.S.C. § 1981 and 42 U.S.C. § 1983 (See Filing No. [24](#)). In light of the Eighth Circuit's opinion in this matter, the Court finds that service on defendants Tek Industries, Joanne Hilgert, and Mel Soyh is now warranted. The Court cautions plaintiff that this is only a preliminary determination based on the allegations of the Complaint and Amended Complaint and is not a determination of the merits of plaintiff's claims or potential defenses thereto.

IT IS ORDERED:

1. To obtain service of process on defendants, plaintiff must complete and return the summons forms that the clerk of the court will provide. The clerk of the court shall send three summons forms and three USM-285 forms to plaintiff, together with a copy of this Memorandum and Order. Plaintiff shall, as soon as possible, complete the forms and send the completed forms back to the clerk of the court. In the absence of the forms, service of process cannot occur.

2. Upon receipt of the completed forms, the clerk of the court will sign the summons forms, to be forwarded with a copy of the Complaint and Amended Complaint to the U.S. Marshal for service of process. The Marshal shall serve the summons and the Complaint and Amended Complaint without payment of costs or fees. Service may be by certified mail pursuant to [Federal Rule of Civil Procedure 4](#) and Nebraska law in the discretion of the Marshal. The clerk of the court will copy the Amended Complaint, and plaintiff does not need to do so.

3. [Federal Rule of Civil Procedure 4](#) requires service of the complaint on a defendant within 120 days of filing the complaint. However, because in this order plaintiff is informed for the first time of these requirements, plaintiff is granted an

extension of time until 120 days from the date of this order to complete service of process.

4. Plaintiff is hereby notified that failure to obtain service of process on a defendant within 120 days of the date of this order may result in dismissal of this matter without further notice as to such defendant. A defendant has 21 days after receipt of the summons to answer or otherwise respond to a complaint.

5. The clerk of the court is directed to set a pro se case management deadline in this case with the following text: "October 7, 2014: Check for completion of service of summons."

6. The parties are bound by the Federal Rules of Civil Procedure and by the Local Rules of this court. Plaintiff shall keep the Court informed of his current address at all times while this case is pending. Failure to do so may result in dismissal.

DATED this 12th day of June, 2014.

BY THE COURT:

/s/ Lyle E. Strom

LYLE E. STROM, Senior Judge
United States District Court

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